

DEPARTMENT of AGRICULTURE and NATURAL RESOURCES

JOE FOSS BUILDING 523 E. CAPITOL AVE PIERRE SD 57501-3182 danr.sd.gov

November 9, 2022

NOTICE OF HEARING

TO:

Susan Anderson

Elk Mountain Water Users Assn. Inc.

PO Box 6062 Custer SD 57730

Ann Mines Bailey, Assistant Attorney

General

1302 East Highway 14, Suite 1 Pierre

SD 57501-8501

Petitioners

(see attached list dated November 9, 2022)

Robert J. Galbraith, Attorney

Nooney & Solay, LLP

PO Box 8030

Rapid City SD 57709-8030

FROM:

Eric Gronlund, Chief Engineer En Kunlund

SD DANR, Water Rights Program

SUBJECT:

Automatic Delay of Hearing on Water Permit Application No. 2850-2, Elk Mountain Water

Users Association Inc.

Petitions in opposition have been filed in the matter of Water Permit Application No. 2850-2 in response to the Notice of Application published in the Rapid City Journal and Custer County Chronicle on September 28, 2022. In response, a Notice of Hearing dated October 27, 2022, was sent to the applicant and petitioners. The notice scheduled a hearing before the Water Management Board on December 7, 2022.

In response to the October 27, 2022 notice, legal counsel for petitioners, Daniel and Dalton Stearns, filed a request for an automatic delay of the December 7, 2022 hearing date. The request for a delay was dated November 4, 2022, and meets the November 7, 2022 filing deadline. Pursuant to SDCL 46-2A-5 and the Notice of Hearing dated October 27, 2022, this is written notice to the chief engineer requesting an automatic delay of the December 7, 2022 hearing date. Therefore, the hearing on Application No. 2850-2 is automatically delayed pursuant to SDCL 46-2A-5 and 46-2A-23 and will NOT be held on December 7, 2022.

The hearing to consider Application No. 2850-2 is now tentatively scheduled for the March 7 and 8, 2023 Water Management Board meeting. The Board will formalize the March 2023 meeting dates at the December 7, 2022 meeting. Future notice of the time and place of the hearing for Application No. 2850-2 will be provided.

Notices, orders, and other pleadings filed in the matter of Water Permit Application No. 2850-2 are posted on DANR's contested case page at https://danr.sd.gov/public/ContestedCase.aspx.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

Petitioner List

Water Permit Application No. 2850-2, Elk Mountain Water Users Association Inc.
November 9, 2022

PETITIONERS

Daniel Norman Stearns 25499 Dewey Rd Edgemont SD 57735

Dalton Stearns 10321Two Track Trl Edgemont SD 57735

Travis Paulton 10693 Pass Creek Rd Edgemont SD 57735 William and Susan Paulton 10666 Pass Creek Rd Edgemont SD 57735

Jim and Charel Pitts 25385 Gillette Canyon Rd Newcastle WY 82701

Late-Filed Petitioner
Tomas & Eraclio Martinez
25663 Dewey Rd
Edgemont SD 57735

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice dated November 9, 2022, regarding an automatic delay of the hearing concerning Water Permit Application No. 2850-2 – Elk Mountain Water Users Association Inc., was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail on November 9, 2022.

Susan Anderson Elk Mountain Water Users Assn. Inc. PO Box 6062 Custer SD 57730 Robert J. Galbraith, Attorney Nooney & Solay, LLP PO Box 8030 Rapid City SD 57709-8030

Petitioners as follows:

Daniel Norman Stearns 25499 Dewey Rd Edgemont SD 57735

Dalton Stearns 10321Two Track Trl Edgemont SD 57735

Travis Paulton 10693 Pass Creek Rd Edgemont SD 57735 William and Susan Paulton 10666 Pass Creek Rd Edgemont SD 57735

Jim and Charel Pitts 25385 Gillette Canyon Rd Newcastle WY 82701

Late-Filed Petitioner Tomas & Eraclio Martinez 25663 Dewey Rd Edgemont SD 57735

Above also Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General 1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Vickie Maberry

Water Rights Program, DANR

STATE OF SOUTH DAKOTA

) SS

COUNTY OF HUGHES

Sworn to, before me, this ______ day of November, 2022.

Karen Schlaak Notary Public

My Commission expires April 1, 2025

KAREN SCHLAAK SON NOTARY PUBLIC State of South Dakota